

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ASTENJOHNSON, INC.	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	NO. 03-1552
	:	
COLUMBIA CASUALTY CO., et al.,	:	
Defendants	:	

O R D E R

AND NOW, this 16th day of August, 2010, upon consideration of American Insurance Company's partial joinder in Columbia Casualty Company's motion for summary judgment and cross motion for summary judgment on grounds of equitable estoppel (Doc. # 359) and AstenJohnson, Inc.'s response thereto (Doc. # 367), it is hereby ORDERED that American's cross motion for summary judgment on grounds of equitable estoppel is hereby DENIED.¹

BY THE COURT:

/s/ LAWRENCE F. STENGEL
LAWRENCE F. STENGEL, J.

¹ To establish equitable estoppel, a party must establish "inducement and justifiable reliance on that inducement." Novelty Knitting Mills, Inc. v. Siskind, 457 A.2d 502, 503 (Pa. 1983). Inducement and justifiably reliance must be established "by clear, precise, and unequivocal evidence." Id. at 504 (quoting Blofsen v. Cutaiar, 333 A.2d 841 (Pa. 1975)). American claims it did not reference the primary policy with which its policy followed form to determine the extent of the asbestos exclusion. Instead, it relied on: (1) the statements of Gloria Forbes who "would have provided the same information to American as [she] provided to" Asten, i.e., the "coverage excludes Asbestos Products and Asbestos Textile Institute"; (2) a 1983 letter from Ms. Forbes, sent a year after the initial policy, stating American's policy excluded asbestos; (3) the renewal application attached to the 1983 letter which, among other statements, stated "Excludes Asbestos Related Claims" under "Additional Exposures"; and (4) a letter from Asten's counsel, also attached to the 1983 letter, describing the asbestos litigation against Asten and the progress of the 1980 insurance coverage action against Asten's pre-1981 primary insurance carriers. These contentions do not establish by clear, precise and unequivocal evidence that American was induced by statements made by Asten or justifiably relied on any such inducement.